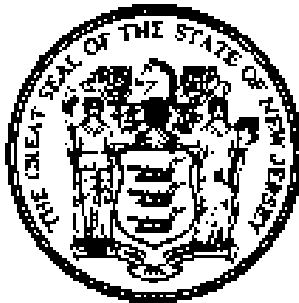

URBAN ENTERPRISE ZONE TAX QUESTIONS AND ANSWERS



Urban Enterprise Zone Program
P.O. Box 820
Trenton, New Jersey 08625-0820

TABLE OF CONTENTS

| | |
|-------------------------------------|----|
| General | 1 |
| Corporation Business Tax..... | 5 |
| Sales Tax Exemption..... | 7 |
| Reduced Sales Tax Collection | 10 |
| IMPORTANT | 13 |
| Sales and Use Tax Regulations | 14 |
| Local UEZ Offices..... | 18 |

URBAN ENTERPRISE ZONES QUESTIONS AND ANSWERS

GENERAL

1. **When can a business owner obtain tax benefits in an Urban Enterprise Zone or Urban Enterprise Zone impacted business district?**

Answer - When it is certified as a qualified business, within a designated zone, by the Urban Enterprise Zone Authority. Exemption certificates will then be issued by the Division of Taxation, effective on the date of certification.

2. **What is an Urban Enterprise Zone?**

Answer - A city which has suffered economic problems and meets certain other criteria may request that the Urban Enterprise Zone Authority designate part of the city, usually about 30%, as an Urban Enterprise Zone.

3. **Where are Urban Enterprise Zones usually located?**

Answer- Usually in the industrial and/or commercial portions of a city, within a continuous boundary. In the joint zone of Vineland-Millville the zone is comprised of parts of two adjoining cities, with the zone having a continuous boundary. The joint zone of Asbury Park-Long Branch has non-continuous boundaries.

4. **What is an Urban Enterprise Zone-impacted business district?**

Answer- It is an economically-distressed business district that has been negatively impacted by the presence of two or more adjacent Urban Enterprise Zones in which 50% less sales tax is collected.

5. **What is the Urban Enterprise Zone Authority?**

Answer - It is a nine member authority, established under N.J.S.A. 52:27H-60 et seq., consisting of the CEO/Secretary of the Commerce and Economic Growth Commission, and the Commissioner's of Community Affairs, Labor, and the State Treasurer or their designees; together with five public members.

6. **How does the Authority designate zones?**

Answer - Upon the enacting of legislation by the State Legislature providing the creation of additional Urban Enterprise Zones, the Authority, by reviewing applications of cities, may designate those municipalities that fulfill the required criteria. The decision is based upon the need of the city for economic development; the unemployment rate; the percentage of families on welfare; the potential benefits shown by the application; and similar factors.

7. **How does the authority designate Urban Enterprise Zones-impacted business districts?**

Answer- A municipality must demonstrate to the Authority that its business district is economically distressed and is being negatively impacted by the presence of two or more adjacent enterprise zones in which 50% less sales tax is collected. In making its decision of whether to designate a municipality as an Urban Enterprise Zone-impacted business district, the Authority will consider whether the district is located in a municipality which is between two municipalities each of which has an enterprise zone and whether the borders of the two enterprise zones of the adjacent municipalities are contiguous to the border of the applicant municipality.

8. When does a designated zone become effective?

Answer - When it is designated by the Authority, and has accepted the designation by municipal ordinance. There are no benefits for a business until the zone is effective, and the business has been certified.

9. How many zones have been established?

Answer - The Urban Enterprise Zone Program (UEZ) was enacted in 1983 with a duration of twenty years. It authorized the designation of ten zones by the New Jersey Urban Enterprise Zone Authority: Camden, Newark, Bridgeton, Trenton, Plainfield, Elizabeth, Jersey City, Kearny, Orange and Millville/Vineland (joint zone).

In 1994 the legislation was amended and ten more zones were added to this successful economic development program. Of the ten new zones, six were predetermined: Paterson, Passaic, Perth Amboy, Phillipsburg, Lakewood, Asbury Park/Long Branch (joint zone). The four remaining zones were selected on a competitive basis. They are Carteret, Pleasantville, Union City and Mount Holly.

The legislation was amended in 1996 to include seven additional zones. They were all predetermined and include East Orange, Guttenberg, Hillside, Irvington, North Bergen, Pemberton and West New York. The legislation was amended again in 2002 to include 3 more zones. They include Bayonne City, Roselle Borough, and a joint zone consisting of North Wildwood City, Wildwood City, Wildwood Crest Borough, and West Wildwood Borough. Legislation was amended again in 2004 to include Gloucester City, creating a total of 31 zones in 36 municipalities.

10. How does a business become certified as a "qualified business" in an Urban Enterprise Zone or in an Urban Enterprise Zone-impacted business district?

Answer - By making application to the local municipal zone coordinator on an Authority application form. The local coordinator verifies that the business is within the zone or district and forwards the application to the Authority at 20 West State Street, P.O. Box 820, Trenton, New Jersey 08625-0820 for review and approval.

11. What tests are used by the Authority to decide whether a business shall be certified in a zone or a district?

Answer - Generally, that the business will create new employment in the municipality containing the zone or district, and will not create unemployment elsewhere in the state (including that municipality).

12. What preliminary tests must all businesses meet?

Answer - The business must be engaged in the active conduct of a trade or business in a zone or district at the time the zone is designated an enterprise zone or the district is designated as an Urban Enterprise Zone-impacted district, or after the zone or district is designated become engaged in the active conduct of a trade or business in that zone or district and have at least 25% of its employees employed at a business location in the zone or district, meeting one or more employment tests.

13. What are the employment tests?

Answer - A new business formed in or moving into a zone or district must have at least 25% of its new full-time employees, hired during its first or second year in the program, meeting one or more of the following criteria:

- (a) Residents within the zone, the district, within another zone or within a qualifying municipality; or
- (b) Unemployed for at least six months prior to being hired and residing in New Jersey, or recipients of New Jersey public assistance programs for at least six months prior to being hired; or
- (c) Determined to be low-income individuals pursuant to the Workforce Investment Act of 1998.

Under an alternative, the Authority may certify a business if it agrees to meet the 25% criteria during its first two years of certification.

If the Authority determines that an applicant is unable in good faith to meet the 25% requirement, the Authority may reduce the requirement below 25% for that business, conditioned upon the agreement of the business to implement and/or sponsor certain specified training and job programs for a period of at least five years.

14. Is there a corporation tax credit for a small business which is unable to increase its employment and which makes an investment in the zone, instead?

Answer - Yes. There is an alternate method by which a zone business may be qualified, even though it is unable to increase its full-time permanent employment, if the business has fewer than 50 employees and was in business in the zone at least one year prior to designation of the zone. This business may be certified for one year by entering into an agreement with the zone city to make an expenditure, approved by the Authority, which contributes substantially to the economic attractiveness of the zone.

The expenditures must be at least \$5,000 for a business with 10 or fewer employees, with an additional \$500 per employee up to the maximum of 49. The corporation is entitled to an 8% investment credit against the Corporation Business Tax for the tax year in which the expenditure is made. The credit may be carried over (see question 26). Corporate tax benefits are unavailable to qualified businesses located within an Urban Enterprise Zone-impacted business district.

15. Are there any retroactive tax benefits for a qualified business after it is certified?

Answer - No. All benefits are effective only from the date of certification. Also, there are no benefits for a business unless it is currently a "qualified business." Renewal of qualified business status must be made annually.

16. What are the benefits in a zone?

Answer - Briefly, the right to buy taxable tangible personal property (except motor vehicles), and most services (except telecommunications services), without sales tax; credits against the Corporation Business Tax for certain businesses hiring certain new employees; and an award for certain new employees, based upon employment insurance tax paid. Also, qualified retail businesses may, on certification by the Division of Taxation, collect sales tax at half rate on most taxable sales of tangible personal property.

17. What are the benefits available to a qualified business within an Urban Enterprise Zone-impacted business district?

Answer- The only benefit available to qualified business located within the Urban Enterprise Zone-impacted business district is the entitlement to collect sales tax at half rate on most taxable sales of tangible personal property.

18. What are Unemployment Insurance Based Awards?

(Administered by the New Jersey Commerce and Economic Growth Commission in conjunction with the NJ Department of Labor)

Answer - A qualified business in a zone may be eligible for an award based upon the amount of unemployment insurance tax it has paid for certain new employees. No qualified business with a deficit reserve ratio qualifies for this award as long as it maintains that ratio. A deficit reserve ratio results when the employer's unemployment charges exceed the employer contributions to the unemployment trust fund.

The award applies only to those full-time employees (30 hours or more/week) whose gross salaries are less than \$4,500 per quarter and is calculated according to a specific schedule. Contact the Department of Labor at (609) 292-2327. The award is unavailable to businesses located within an Urban Enterprise Zone-impacted business district.

19. Are businesses ever denied recertification?

Answer - Yes. If a qualified business is unable to maintain the number of employees it had when it met the employment tests required for qualification, the business no longer meets the criteria for being a qualified business and the business loses its UEZ or UEZ-impacted business district benefits. The Local Coordinators in the zones or districts will answer questions about re-qualification.

20. When do the benefits available to Urban Enterprise Zone-impacted business districts terminate?

Answer- When the duration of one or more of the enterprise zones adjacent to the Urban Enterprise Zone-impacted business district expires but the Urban Enterprise Zone-impacted business district continues to be adjacent to one or more remaining enterprise zones, the Authority will review the designation of the Urban Enterprise Zone-impacted business district. If upon conducting a hearing, the Authority finds that the business district continues to be economically distressed and negatively impacted by the remaining adjacent enterprise zone, the Urban Enterprise Zone-impacted business district designation shall be continued. The designation of the Urban Enterprise Zone-impacted business district will terminate automatically when the duration of the last enterprise zone adjacent to the district ends.

CORPORATION BUSINESS TAX

21. How is the new employee tax credit granted?

Answer - A qualified business which is not retail sales or warehousing oriented, may be entitled to an employee tax credit. It is available to corporations subject to the Corporation Business Tax which hire new employees at the zone location, after they become qualified. The corporation may claim either a \$1,500 or \$500 credit for each new employee, provided that all criteria are met.

22. What is the difference between the two credits?

Answer - A one-time credit of \$1,500 is allowed for each new full-time, permanent employee who resides in any municipality which contains a zone, and immediately prior to employment by the qualified business was unemployed for at least 90 days or dependent upon public assistance as the primary source of income.

A one-time credit of \$500 is allowed for new full-time permanent employees who do not meet the qualification for the \$1,500 tax credit, but are residents of any municipality in which a designated enterprise zone is located, and were not employed at a location within the qualifying municipality immediately prior to employment by the qualified business.

The credit is available only for new full-time permanent employees who have been employed by the qualified business for at least six continuous months during the year for which the credit is claimed. For a new employee to be considered a full-time permanent employee, the total number of full-time permanent employees, including the new employee, employed by the qualified business during the calendar year must exceed the greatest number of full-time permanent employees employed in the zone by the qualified business during any prior calendar year since the zone was designated.

23. How long must the new employee be employed?

Answer - A tax credit may be available for each new permanent full-time employee who was hired in the preceding tax year, and employed for at least six consecutive months during the tax year for which the credit is claimed, provided that the employee works at the business location within the designated zone.

For example, if a corporation is on a calendar year, it can hire new employees between April 20, 2000 and December 31, 2000. None of them can result in a 2000 credit, whether employed more than 6 months, or less, in 2000. Any qualifying employees hired in 2000 who work continuously through June 30, 2001 (6 months) can result in the credit for the 2001 tax-year C.B.T. return.

24. How is this credit claimed?

Answer - To claim the credit, an employer must file a completed CBT Form 300 with the New Jersey Corporation Business Tax Return (CBT-100). The credit is claimed on page one (1) of the return. The Form 300 can be obtained through the Forms Request System, (800) 323-4400.

25. How much credit is allowed?

Answer - There is no maximum limit on the credit. However, only 50% of the tax otherwise due may be offset by the credit in any tax year. Also, the minimum tax of \$500.00 must be paid.

26. Is the unused credit in any tax year lost?

Answer - No. Unused credits are carried over to succeeding tax years and may be applied against 50% of the tax then due, up to the later of the date of termination of the zone or 20 years from the date on which Corporate Business Tax was first payable.

27. Can the \$500/\$1,500 tax credit apply to all UEZ certified bank employees (including branches) or by a branch method?

Answer - The UEZ Act provides in pertinent part:

"Any qualified business... actively engaged in the conduct of business from a location within an enterprise zone ... which business at that location consists primarily of manufacturing or other business which is not retail sales or warehousing oriented, shall receive an enterprise zone employee tax credit ... for each new full-time permanent employed at that location . . ." N.J.S.A. 52:27H-78.

The Division of Taxation would allow a business to take credit with regard to each location that meets all three of the following criteria:

- (1) the location is certified as a "qualified business" by the UEZ Authority;
- (2) the location consists of a business that is not retail sales or warehousing oriented; and
- (3) the employees meeting the statutory criteria are actually and "physically" working at the location.

28. Is there any other tax benefit if a corporation is not eligible for the employee tax credit?

Answer- A corporation tax credit is available to qualified small businesses (under 50 employees) that were in business in the zone prior to designation of the zone and that make an investment in the zone. These businesses may obtain an eight percent investment credit, to be applied against corporation business tax, by entering into an agreement, approved by the Urban Enterprise Zone Authority, with the zone city, to make an investment in the zone, which contributes substantially to the economic attractiveness of the zone. These expenditures may include improvement of the appearance or customer facilities of its place of business or improvements in landscaping, recreation, police and fire protection, etc., in the zone.

SALES TAX EXEMPTION

- 29. What kind of personal property can a qualified business buy or rent under the sales tax purchase exemption?**

Answer - The purchase exemption applies to office and business equipment and supplies, furnishings, trade fixtures, repair or construction materials and all other tangible personal property purchased by a qualified business (other than motor vehicles and parts and supplies) for exclusive use or consumption on the premises of the qualified business at its zone location. Only personal property controlled by the "qualified business" qualifies for the exemption.

- 30. Are any taxable services exempt?**

Answer - Most services performed for a qualified business at its zone location are exempt. Examples are repair, janitorial and maintenance services of all kinds. However, telecommunications services (see question 31), repairs of motor vehicles (see question 34) and utility service, are not exempt.

- 31. Does the purchase exemption apply to telecommunications services?**

Answer - No. The purchase exemption does not apply to the sales tax on telecommunications services, such as telephone, computer, fax, "beeper" and alarm security telecommunications services. On the other hand, the purchase or rental of non-mobile telecommunications equipment, and repair and maintenance of the equipment, qualify for exemption - if, on the billings, such charges are stated separately from the charges for the telecommunications services.

- 32. Does the purchase exemption apply to other types of purchases, such as purchases of gas, electricity, meals, rooms, admissions, or to the petroleum products gross receipts tax?**

Answer - No. The exemption only applies to taxes imposed by the Sales and Use Tax Act, on "tangible personal property" and "services", which do not include gas, electricity, prepared foods and beverages, rooms or admissions. Further, the exemption does not apply to petroleum products gross receipts or fuel taxes, because they are not imposed under the Sales and Use Tax Act.

NOTE: P.L. 2004, c.65, amended the UEZ law to create -- only for qualified businesses employing 500 or more people in the zone (or "vertically integrated" qualified businesses in a redevelopment area collectively employing 500 or more in the zone) -- a sales and use tax exemption for purchases of gas, electricity, and gas and electricity utility services. Also, at least 50% of the zone employees must be directly employed in the manufacturing process.

- 33. If a qualified business has other business locations outside of the zone, can it purchase tax exempt property for use at those locations?**

Answer - No. The statute provides the purchase exemption only "for the exclusive use or consumption of such business within an Enterprise Zone."

- 34. Are motor vehicles, and parts, supplies and repairs for motor vehicles, exempt?**

Answer - No. The exemption applies only for items purchased for use exclusively at the place of business within the zone. Similarly, rentals and leases of motor vehicles (including trailers and house trailers) are not exempt. (See questions below for more information.)

- 35. What about the purchase or rentals of nonconventional vehicles, such as forklifts?**

Answer - The sales tax exemption applies to the purchase, rental and use of nonconventional vehicles used exclusively at the place of business in the zone. This exemption also applies to parts and repair services for such vehicles.

- 36. Are charges for the repair of machinery or equipment of a qualified business made at location outside a zone exempt?**

Answer - Yes, provided that the machinery or equipment will then be used exclusively at the zone location of the qualified business.

- 37. What does a qualified business give its vendors or lessors for proof of exemption from sales tax on its purchases or rentals?**

Answer - A completed and executed copy of the UZ-5. The transaction must be completed by delivery within the effective dates on the UZ-5. The vendor must keep the copy of the UZ-5 with his/her records like any other exemption certificate. Qualified businesses must continue to use the ST-3 for purchases for resale.

- 38. A qualified business repairs or expands its building. Are there any exemptions with respect to the costs incurred?**

Answer - Yes. The building materials are exempt, whether purchased by the qualified business or a contractor. (See also questions 39 and 40.)

- 39. Is there a distinction between repair and maintenance services, and new construction, when the qualified business owns the real property being worked on?**

Answer - No. Repair and maintenance services, and materials and supplies purchased for such services or for new construction, are all exempt, as long as the work is done for the qualified business and at its zone location.

If the materials or supplies are purchased by a contractor (or a subcontractor), the contractor completes a UZ-4, obtainable only from the qualified business. After completing the UZ-4, the contractor may issue copies to its vendors or its subcontractors. Any subcontractor must attach its name, address and certificate of authority number (in addition to the name, address and number of the contractor) and then give the UZ-4 and attachments to its vendors.

- 40. A contractor, which is a qualified business, buys building materials for construction on, or repair of, property of an owner who is not a qualified business. Does the contractor's exemption apply?**

Answer - No. The construction material exemption is available only if the property owner is a qualified business.

- 41. A contractor rents or leases a crane or other equipment for use on a qualified business construction job. Is the rental or lease exempt from tax?**

Answer - No. The construction material exemption does not apply to equipment used by the contractor.

- 42. Must exempt purchases by a qualified business be made from vendors located within an Enterprise Zone?**

Answer - No. To accept a UZ-4 or UZ-5 exemption certificate and not charge New Jersey sales tax, the vendor does not need to be located in a zone. If exempt purchases are delivered into New Jersey from an out-of-state vendor, a qualified business is exempt from New Jersey use tax that would otherwise be due.

43. Is there an exemption for advertising material?

Answer - Yes, as long as the advertising material is used exclusively at the place of business in the zone. This includes handbills, flyers, sales catalogs, etc., for distribution at the zone place of business, but does not include items used for mailing to customers in New Jersey. Direct mail processing services also are **not** exempt from any sales or use tax due.

44. Can a UEZ business apply for a refund of sales tax on transactions made after the business became qualified but before it received the exemption certificates?

Answer - If the UEZ Authority has certified a business as a UEZ "qualified business," the business is entitled to the sales tax exemption provided by the UEZ Act, for purchases (including rentals) delivered to the business during the qualification period. If the qualified business has not received its UZ-4 and UZ-5 exemption certificates or simply forgot to use the certificate for certain purchases, the business may apply for a refund of sales and use tax paid on purchases delivered to the business during the period of exemption. The business must file the claim for refund with the Division of Taxation within 4 years of the payment of sales tax.

45. Is the cleaning of wearing apparel (uniforms, etc.) eligible for exemption?

Answer - A "qualified business" will be exempt from sales tax on the cleaning of uniforms, etc., if the apparel or linens will be used only at the place of business in the zone.

46. Can the purchase of alcohol be tax exempt if used as an ingredient of an end item, i.e., special baked products and/or food products?

Answer - The purchase of alcoholic beverages to be used as an ingredient of a food product produced for sale is exempt under the purchase-for-resale exemption. The business should use a New Jersey ST-3 Resale Certificate as proof of exemption.

47. Are the sales tax benefits available to businesses located in an Urban Enterprise Zone-impacted business district?

Answer- No sales tax purchase or use benefits are available. However, exemptions in the law for any business still apply; e.g., sale for resale exemption. The only benefit available to qualified businesses located within the Urban Enterprise Zone-impacted business district is the ability to collect sales tax at a reduced rate of 50% of most items of tangible personal property.

REDUCED SALES TAX COLLECTION

- 48. What is the reduced rate for collection of sales tax by vendors having a UZ-2 certificate?**

Answer - 50% of the regular sales tax rate.

- 49. Are qualified businesses located within an Urban Enterprise Zone-impacted business district eligible to collect sales tax at a reduced rate of 50%?**

Answer- Yes. Collecting sales tax at the reduced rate is the only benefit available to qualified businesses located within an Urban Enterprise Zone-impacted business district.

- 50. How does a reduced rate vendor qualify?**

Answer - First the vendor must be designated as a qualified business within a zone or district. Then, by separate application, the vendor must apply to the Division of Taxation on Form UZ-1 for authority to collect tax at the reduced rate. If the qualified business is a retailer and exhibits and has an inventory of items for retail sales, and is not primarily a catalog or mail order business, the application is approved and a UZ-2 Certificate is issued.

No business may collect sales tax at the reduced rate without a currently effective UZ-2. Recertification of the UZ-2 is automatic, unless the business loses its "qualified business" status or changes ownership or form, etc. Businesses have to reapply each year for qualified business status.

- 51. When may application be made?**

Answer - At the same time the company sends its application to the UEZ Authority to become a "qualified business," or later, so long as the "qualified business" status exists.

- 52. How long is the certification effective?**

Answer - The UZ-2 is valid for the duration of the qualified business's certification year. When the UEZ Authority recertifies the business as a "qualified business" a new UZ-2 is automatically sent.

- 53. Are motor vehicles eligible for the reduced sales tax rate?**

Answer - No. The receipts from sales, leases, and rentals of motor vehicles and trailers are taxable at the regular sales tax rate.

- 54. Are motor vehicle parts eligible for the reduced sales tax rate?**

Answer - Yes. Parts, but not services, may be eligible for the reduced rate sales tax - if the vendor meets the retail requirements discussed in question 50 and itemizes the parts separately from any service charges on the bill.

- 55. Are there any other kinds of personal property which cannot be sold at the 50% sales tax rate?**

Answer - Yes. The retail sales tax on the sale of alcoholic beverages, cigarettes and energy do not qualify for the reduced sales tax rate. For alcoholic beverages, cigarettes and energy, sales tax must always be collected at the full rate.

- 56. A restaurant is a qualified business. Is the reduced sales tax rate available for restaurant meals?**

Answer - No. The reduced sales tax rate only applies to the sale of tangible personal property. The sale of restaurant meals or prepared foods or beverages is not considered the sale of tangible personal property under the Sales and Use Tax Act.

57. Does the reduced sales tax rate apply to the sale of services, rooms or admissions?

Answer - No. The reduced sales tax rate only applies to the sale of tangible personal property. If a "reduced rate" vendor sells both services and personal property, the reduced sales tax rate may apply to sales of property (not services), but only if the cost of the property is itemized separately on the bill.

Storage space and safety deposit box rentals are "services" (not eligible for reduced sales tax rate).

58. Does the reduced sales tax apply to rentals and leases?

Answer - Yes. Sales tax law defines a sale as including the rental or leasing of personal property.

59. How does a reduced rate vendor report and remit sales tax?

Answer - Form UZ-50, covering sales tax at the regular rate for non-qualifying sales, and at the half rate for qualifying sales, must be filed monthly. The UZ-50 replaces forms ST-50 and ST-51.

If you file the New Jersey/New York combined Sales Tax ST-20 and ST-21, you must file those and the UZ-50. On the UZ-50, report only New Jersey sales (both the regular rate sales and the reduced rate sales). On the ST-20 and ST-21, report only New York sales.

60. A taxpayer holds a UZ-2. He usually files quarterly sales and use tax returns. Can he file the UZ-50 on a quarterly basis?

Answer - No. Taxpayers collecting reduced sales tax must file the UZ-50 combined return on a monthly basis.

61. I own a retail store and hold a UZ-2 certificate. Can I collect the half rate on mail, telephone or similar types of orders?

Answer - Only if the customer picks up the order at the store in the zone, and the business is not primarily a mail or telephone order business. All sales of tangible personal property, which qualify for the reduced rate, must be "face-to-face" transactions at the store.

62. Must the customer pick up the property himself in order to qualify for the reduced sales tax rate?

Answer - No. Delivery may be made by the vendor, or by a carrier for the vendor, to a destination within or outside of the zone, as long as the property was ordered in person at the location in the zone and the property was delivered from the location in the zone.

63. Is the reduced rate limited to customers located in the zone or district?

Answer - No. The residence or location of the customer has no bearing on the application of the reduced rate to a "face-to-face" sale of tangible personal property in a zone or district, as long as the order is picked up by the customer or is delivered to a New Jersey address from inventory at the location in the zone or district. (NOTE: Reduced sales tax does not apply to "out-of-state" sales, because no New Jersey sales tax is collected.)

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64. **A vendor holding a reduced rate sales tax collection certificate (UZ-2) receives an order by telephone and delivers the property, from its retail inventory, to the buyer by vendor's truck or by common carrier. The buyer then comes in and pays in person, whether by cash, check, credit card or otherwise. Does this transaction qualify as a reduced rate sales transaction?**

Answer - No. Payment is not part of the sale transaction for this purpose. For reduced sales tax, either the buyer must order in person or pick up the purchase in person at the qualified vendor's place of business. If those requirements are met, reduced sales tax applies, regardless of the payment time or method (cash, check, credit card, etc.).

65. **Can blanket purchase orders be placed on a short-term basis i.e., three (3) months, six (6) months?**

Answer - For a UZ-2 certified business to be able to charge 3% sales tax, the sales contract must: specify a numerical quantity and a numerical price; specify, in detail, the item(s) that will be bought; and require that all deliveries will be completed by the next "qualification" ending date of the business. Please note that the Division may, in the near future, establish more stringent requirements for the delivery provision that must be in the contract. The sales must also meet the face-to-face transaction and delivery from the zone inventory requirements.

IMPORTANT

66. What are the most frequent problems involving the tax benefits of a qualified business?

Answer - Failure to requalify annually, which results in loss of benefits, and qualified businesses making reduced rate sales without a currently valid **UZ-2**. Unauthorized use of benefits can result in substantial penalties.

NOTE: The law is found at N.J.S.A. 52:27H-60 through 27H-89. Substantial amendments were made by P.L. 1988, C. 93, approved August 4, 1988; by P.L. 1990, C. 40, approved June 27, 1990; and by P.L. 1993, C. 367, approved January 5, 1994.

SALES AND USE TAX REGULATIONS

SUBCHAPTER 31. URBAN ENTERPRISE ZONES ACT

18:24-31.1 General

(a) The New Jersey Urban Enterprise Zones Act, Chapter 303, Laws of > 1983, N.J.S.A. 52:27H-60 et seq., approved August 15, 1983, provides for the establishment of urban enterprise zones (also known as UEZs) in urban areas suffering from high unemployment and economic distress and UEZ-impacted business districts. Each designation shall be for 20 years, except as otherwise designated or extended by the Authority. Zones and districts are designated by an Urban Enterprise Zone Authority. The Authority may grant certain sales tax and other tax benefits to businesses existing in or formed in enterprise zones or UEZ-impacted districts, which have met the definition of a qualified business. This subchapter of the sales tax rules sets forth the possible benefits, the necessary definitions, and the procedures for qualifying for any of these sales tax benefits.

(b) The possible sales tax benefits include an exemption for retail sales to a qualified business, a partial exemption for retail sales by a qualified business, and an exemption for sales of building materials and services used in constructing or maintaining buildings or realty of a qualified business.

(c) No business can obtain tax benefits under this subchapter unless the Urban Enterprise Zone Authority has determined that the business meets the definition of a qualified business under N.J.S.A. 52:27H-62c paraphrased below in > N.J.A.C. 18:24-31.2.

Amended by R.1993 d.313, effective July 6, 1993.

See: 25 N.J.R. 1486(a), 25 N.J.R. 2899(c).

Amended by R.1998 d.288, effective June 1, 1998.

See: 30 N.J.R. 1206(b), 30 N.J.R. 2070(b).

In (a), deleted ", and the right to establish enterprise zones shall expire 10 years from August 15, 1983" at the end of the second sentence.

Amended by R.2003 d.348, effective August 18, 2003.

See: 35 N.J.R. 2165(a), 35 N.J.R. 3848(a).

Rewrote

18:24-31.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Qualified business" means:

1. An entity authorized to do business in New Jersey which, at the time of designation as an enterprise zone or UEZ-impacted district, is engaged in the active conduct of a trade or business in that zone or district; or
2. An entity which, after that designation but during the designation period, becomes newly engaged in the active conduct of a trade or business in that zone or district, and has at least 25 percent of its full-time employees employed at a business location in the zone or district, who meet at least one of the following criteria:
 - i. Residents within the zone or district, within another zone or within the municipality within which the zone or any other zone or district is located; or
 - ii. Either unemployed for at least six months prior to being hired and residing in New Jersey, or recipients of New Jersey public assistance, for at least six months prior to being hired; or
 - iii. Found to be low-income individuals, pursuant to the Workforce Investment Act of 1998, P.L. 105-220 (> 29 U.S.C. § 2811).

"Enterprise zone" or "zone" means an urban enterprise zone designated by the Urban Enterprise Zone Authority under > N.J.S.A. 52:27H-60 et seq.

"UEZ-impact business district" or "district" means an economically-distressed business district classified by the Authority as having been negatively impacted by two or more adjacent urban enterprise zones in which 50 percent less sales tax is collected pursuant to section 21 of P.L. 1983, c.303 (> N.J.S.A. 52:27H-80).

Amended by R.1993 d.313, effective July 6, 1993.

See: 25 N.J.R. 1486(a), 25 N.J.R. 2899(c).

Amended by R.2003 d.348, effective August 18, 2003.

See: 35 N.J.R. 2165(a), 35 N.J.R. 3848(a).

Rewrote the section.

18:24-31.3 Exemption for retail sales to a qualified business

(a) Retail sales and leases of tangible personal property (except motor vehicles and energy) to a qualified business and sales of services (except telecommunications and utility service) to a qualified business for the exclusive use or consumption of such business within an enterprise zone are exempt from the sales and use taxes imposed by > N.J.S.A. 54:32B-1 et seq., provided that the designation of the enterprise zone by the Urban Enterprise Zone Authority specifically makes this exemption available to the qualified business.

(b) Tangible personal property includes, for example, items such as office supplies, office or business equipment, office and store furnishings, trade fixtures, and cash registers. Services include installing, maintaining or repairing tangible personal property used in business (other than a motor vehicle); maintaining, servicing or repairing real property used in business, including janitorial services, and advertising services used or consumed exclusively within the enterprise zone.

(c) Qualified businesses purchasing or leasing tangible personal property (except motor vehicles and energy) or services (except telecommunications and utility services) to be used or consumed exclusively within the enterprise zone shall furnish to their vendors, suppliers or lessors, a properly completed UZ-5, Urban Enterprise Exempt Purchase Certificate.

(d) The benefits set forth in this section are unavailable for qualified businesses within a UEZ-impacted business district.

Amended by R.1993 d.313, effective July 6, 1993.

See: 25 N.J.R. 1486(a), 25 N.J.R. 2899(c).

Amended by R.1998 d.288, effective June 1, 1998.

See: 30 N.J.R. 1206(b), 30 N.J.R. 2070(b).

In (a) and (c), inserted exceptions relating to energy and to utility service; and in (c), substituted "including janitorial services, and advertising services used or consumed exclusively within the enterprise zone" for "and "and advertising services" at the end.

Amended by R.2003 d.348, effective August 18, 2003.

See: 35 N.J.R. 2165(a), 35 N.J.R. 3848(a).

Added (d).

Case Notes

Tangible personal property is exempt pursuant to Urban Enterprise Zones Act. > Fedway Associates, Inc. v. Director, Div. of Taxation, 14 N.J.Tax 71 (1994), affirmed 282 N.J.Super. 129, 659 A.2d 536, 15 N.J.Tax 203, certification denied > 142 N.J. 573, 667 A.2d 190.

18:24-31.4 Partial exemption for retail sales of tangible personal property by a certified vendor

(a) Sales tax is imposed at 50 percent of the statutory rate, on receipts from retail sales, with exceptions stated in (b) or (c) below, made by a certified vendor which is a qualified business from a place of business owned or leased, and regularly operated by the vendor for the purpose of making retail sales, and located in a designated enterprise zone or UEZ-impacted district.

(b) This partial exemption does not extend to sales of motor vehicles, cigarettes, alcoholic beverages, or energy.

(c) The provisions of this partial exemption do not apply to retail sales of manufacturing machinery, equipment or apparatus. Such sales may, however, be exempt from sales tax under the provisions of > N.J.S.A. 54:32B-8.13, as further defined in > N.J.A.C. 18:24-4.1 through > 18:24-4.8.

(d) In addition to being a qualified business, a certified vendor must regularly operate a place of business for the purpose of making retail sales. Items of tangible personal property must be regularly exhibited and offered for retail sale at this location, and the place of business may not be utilized primarily for the purpose of catalog or mail order sales.

(e) All sales made by a qualified and certified vendor must be made from his place of business within an enterprise zone or district, that is, either the purchaser must accept delivery at the vendor's place of business within an enterprise zone or district, or the vendor must deliver the tangible personal property from its place of business within an enterprise zone or district. Only receipts from sales which originate and are completed by the purchaser in person at the vendor's place of business within an enterprise zone or district qualify for the reduced rate of sales tax; provided, however, that after a sale has been completed within an enterprise zone or district, the vendor may deliver the tangible personal property to the purchaser at a location outside an enterprise zone or district.

1. Receipts from mail order, telephone, telex and similar sales transactions are subject to sales tax at the regular rate where delivery is made to a location within this State.

(f) Vendors that meet the requirements in (a) and (b) above and that lease tangible personal property may pay use tax at 50 percent of the regular rate, as long as the lease meets the requirements above. However, if the lessor later leases the property to a lessee that fails to meet the requirements in (e) above of completing the lease transaction at the lessor's place of business, tax shall be due at the regular rate, unless the lessee is exempt under some other exemption provided by the Sales and Use Tax Act.

Amended by R.1985, d.31, effective February 4, 1985.

See: 16 N.J.R. 3193(a), 17 N.J.R. 320(c).

(e) added.

Amended by R.1993 d.313, effective July 6, 1993.

See: 25 N.J.R. 1486(a), 25 N.J.R. 2899(c).

Amended by R.1998 d.288, effective June 1, 1998.

See: 30 N.J.R. 1206(b), 30 N.J.R. 2070(b).

In (b), added a reference to energy; and in (e), rewrote the first sentence.

Amended by R.2003 d.348, effective August 18, 2003.

See: 35 N.J.R. 2165(a), 35 N.J.R. 3848(a).

In (a), inserted "or UEZ-impacted district" following "designated enterprise zone"; in (e), inserted "or district" following "enterprise zone" throughout the introductory paragraph.

18:24-31.5 No partial exemption for retail sales of taxable services by a qualifying business

The Urban Enterprise Zones Act in Section 21 provides for an exemption to the extent of 50 percent of the statutory rate of sales and use tax on retail sales (other than motor vehicles, cigarettes, alcoholic beverages, energy, and manufacturing machinery, equipment or apparatus) by a certified vendor which is a qualified business. The statute does not provide for any full or partial exemption on the sale or furnishing of taxable services.

Amended by R.1993 d.313, effective July 6, 1993.

See: 25 N.J.R. 1486(a), 25 N.J.R. 2899(c).
Amended by R.1998 d.288, effective June 1, 1998.
See: 30 N.J.R. 1206(b), 30 N.J.R. 2070(b).
Inserted a reference to energy.

18:24-31.6 Exemption for retail sales of building materials to or for a qualified business

- (a) Section 31 of the Act provides an exemption from sales and use tax on sales of materials, supplies or services to contractors or repairmen for exclusive use in erecting structures, or building on, or improving, altering or repairing real property of a qualified business within an enterprise zone.
- (b) Purchasers of materials, supplies or services to be used for construction, alteration and repair of structures and realty of qualified businesses within an enterprise zone shall furnish to their vendors or suppliers a properly completed UZ-4, Contractor's Exempt Purchase Certificate, Urban Enterprise Zone.
- (c) For the purpose of this section, a qualified business performing construction or similar work with its own personnel shall be considered as its own contractor, and shall be entitled to deliver a properly completed UZ-4 directly to the vendor.
- (d) The benefits set forth in this section are unavailable for qualified businesses within a UEZ-impacted business district.

Amended by R.2003 d.348, effective August 18, 2003.
See: 35 N.J.R. 2165(a), 35 N.J.R. 3848(a).
Added (d).

LOCAL UEZ OFFICES

| | | |
|-------------------------|-------|------------------------------|
| Asbury Park..... | (732) | 502-5749 |
| Bayonne | (201) | 858-6043 |
| Bridgeton | (856) | 455-3230 - Ext. 216 |
| Camden..... | (856) | 614-1500 |
| Carteret | (732) | 541-3811 |
| East Orange..... | (973) | 266-5141 |
| Elizabeth..... | (908) | 289-0262 - Ext. 214 |
| Gloucester City..... | (856) | 456-6075 |
| Guttenberg..... | (201) | 868-9455 |
| Hillside | (973) | 926-1054 |
| Irvington | (973) | 399-5636 |
| Jersey City..... | (201) | 333-7797 - Ext. 25 |
| Kearny | (201) | 955-7985 |
| Lakewood | (732) | 364-2500 - Ext. 5256 |
| Long Branch..... | (732) | 923-2040 |
| Millville..... | (856) | 563-0440 |
| Mount Holly | (609) | 845-1148 |
| Newark | (973) | 424-4154 - Ext. 1010 or 1008 |
| New Brunswick..... | (732) | 745-5050 |
| North Bergen | (201) | 392-2467 |
| Orange | (973) | 266-4061 |
| Passaic | (973) | 365-5520 |
| Paterson..... | (973) | 321-1212 |
| Pemberton Township..... | (609) | 894-3316 |
| Perth Amboy..... | (732) | 442-6421 |
| Phillipsburg..... | (908) | 454-5500 - Ext. 338 |
| Plainfield | (908) | 753-3655 |
| Pleasantville | (609) | 484-7359 |
| Roselle Borough..... | (908) | 259-3001 |
| Trenton | (609) | 989-3508 |
| Union City | (201) | 271-2350 |
| Vineland..... | (856) | 563-0440 |
| West New York | (201) | 295-5289 |
| The Wildwoods | (609) | 522-2444 - Ext. 2248 |

Urban Enterprise Zone Program
PO Box 820
Trenton, NJ 08625-0820
(609) 292-1912
FAX (609) 633-8004